THE EXTRA SESSION OF 1879.

WHAT IT TEACHES AND WHAT IT MEANS

SPEECH

OF

ROSCOE CONKLING

IN THE

SENATE OF THE UNITED STATES,

APRIL 24, 1879.

"Corruption wins not more than honesty."

WASHINGTON.
1879

SPEECH

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The Senate having under consideration the bill (H. R. No. 1) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes—

Mr. CONKLING said:

Mr. PRESIDENT: During the last fiscal year the amount of national taxes paid into the Treasury was $234,831,461.77. Of this sum one hundred and thirty million and a fraction was collected under tariff laws as duties on imported merchandise, and one hundred and four million and a fraction as tax on American productions. Of this total of $235,000,000 in round numbers, twenty-seven States which adhered to the Union during the recent war paid $221,204,268.88. The residue came from eleven States. I will read their names: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia. These eleven States paid $13,627,192.89. Of this sum more than six million and a half came from the tobacco of Virginia. Deducting the amount of the tobacco-tax in Virginia, the eleven States enumerated paid $7,125,462.60 of the revenues and supplies of the Republic.

Mr. HILL, of Georgia. Will the Senator from New York allow me to ask him a question?

Mr. CONKLING. If the Senator thinks that two of us are needed to make a statement of figures I will.

Mr. HILL, of Georgia. Two no doubt can make it better.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Georgia?

Mr. CONKLING. After the expressed opinion of the Senator from Georgia that the statement needs his aid, I cannot decline.

Mr. HILL, of Georgia. I will not interrupt the Senator if it is disagreeable to him, I assure him. I ask if in the computation he has made of the amount paid he does not ascribe to the States that adhered to the Union, to use his language, all——

Mr. CONKLING. Having heard the Senator so far, I must ask him to desist.

The PRESIDING OFFICER. The Senator from New York declines to yield further.

Mr. CONKLING. I have stated certain figures as they appear in the published official accounts: the Senator seems about to challenge the process or system by which the accounts are made up. I cannot give way for this, and must beg him to allow me to proceed with ob-

servations which I fear to prolong lest they become too wearisome to the Senate.

The laws exacting these few millions from eleven States, and these hundreds of millions from twenty-seven States, originated, as the Constitution requires all bills for raising revenue to originate, in the House of Representatives. They are not recent laws. They have been approved and affirmed by succeeding Congresses. The last House of Representatives and its predecessor approved them, and both these Houses were ruled by a democratic Speaker, by democratic committees, and by a democratic majority. Both Senate and House are democratic now, and we hear of no purpose to repeal or suspend existing revenue laws. They are to remain in full force. They will continue to operate and to take tribute of the people. If the sum they exact this year and next year, shall be less than last year, it will be only or chiefly because recent legislation favoring southern and tobacco-growing regions has dismissed twelve or fourteen million of annual tax on tobacco.

This vast revenue is raised and to be raised for three uses. It is supplied in time of severe depression and distress, to pay debt inflicted by rebellion; to pay pensions to widows, orphans, and cripples made by rebellion; and to maintain the Government and enforce the laws preserved at inestimable cost of life and treasure.

It can be devoted to its uses in only one mode. Once in the Treasury, it must remain there useless until appropriated by act of Congress. The Constitution so ordains. To collect it, and then defeat or prevent its object and use, would be recreant and abominable oppression.

The Constitution leaves no discretion to Congress whether needful appropriations shall be made. Discretion to ascertain and determine amounts needful, is committed to Congress, but the appropriation of whatever is needful after the amount has been ascertained, is commanded positively and absolutely. When, for example, the Constitution declares that the President and the judges at stated periods shall receive compensation fixed by law, the duty to make the appropriations is plain and peremptory; to refuse to make them, is disobedience of the Constitution, and treasonable. So, when it is declared that Congress shall have power to provide money to pay debts, and for the common defense and the general welfare, the plain meaning is that Congress shall do these things, and a refusal to do them is revolutionary, and subversive of the Constitution. A refusal less flagrant would be impeachable in the case of every officer and department of the Government within the reach of impeachment. Were the President to refuse to do any act enjoined on him by the Constitution, he would be impeachable, and ought to be convicted and removed from office as a convict. Should the judges, one or some or all of them, refuse to perform any duty which the Constitution commits to the judicial branch, the refusal would be plainly impeachable.

Congress is not amenable to impeachment. Congressional majorities are triable at the bar of public opinion, and in no other human forum. Could Congress be dissolved instantly here as in England, could Senators and Representatives be driven instantly from their seats by popular disapproval, were they amenable presently somewhere, there would be more of bravery, if not less of guilt, in a disregard of sworn obligation. Legislators are bound chiefly by their honor and their oaths; and the very impunity and exemption they enjoy exalts and measures their obligations, and the crime and odium of violating them. Because of the fixed tenure by which the mem-

bers of each House hold their places and their trusts, irreparable harm may come of their acts and omissions, before they can be visited with even political defeat, and before the wrong they do can be undone. A congressional majority is absolutely safe during its term, and those who suffered such impunity to exist in the frame of our Government, must have relied on, the enormity and turpitude of the act to deter the representatives of the people and the representatives of States from betraying a trust so exalted and so sacred as their offices imply.

Mr. President, it does not escape my attention, as it must occur to those around me, that in ordinary times obvious aphorisms, I might say truisms like these would be needless, if not out of place in the Senate. They are pertinent now because of an occasion without example in American history. I know of no similar instance in British history. Could one be found, it would only mark the difference between an hereditary monarchy without a written constitution, and a free republic with a written charter plainly defining from the beginning the powers, the rights, and the duties of every department of the government. The nearest approaches in English experience to the transactions which now menace this country, only gild with broad light the wisdom of those who established a system to exempt America forever from the struggles between kingcraft and liberty, between aristocratic pretension and human rights, which in succeeding centuries had checkered and begrimed the annals of Great Britain. It was not to transplant, but to leave behind and shut out the usurpations and prerogatives of kings, nobles, and gentry, and the rude and violent resorts which, with varying and only partial success, had been matched against them, that wise and far-seeing men of many nationalities came to these shores and founded "a government of the people, for the people, and by the people." Such boisterous conflicts as the Old World had witnessed between subjects and rulers—between privilege and right, were the warnings which our fathers heeded, the dangers which they shunned, the evils which they averted, the disasters which they made impossible so long as their posterity should cherish their inheritance.

Until now no madness of party, no audacity or desperation of sinister, sectional, or partisan design, has ever ventured on such an attempt as has recently come to pass in the two Houses of Congress. The proceeding I mean to characterize, if misunderstood anywhere, is misunderstood here. One listening to addresses delivered to the Senate during this debate, as it is called, must think that the majority is arraigned, certainly that the majority wishes to seem and is determined to seem arraigned, merely for insisting that provisions appropriating money to keep the Government alive, and provisions not in themselves improper relating to other matters, may be united in the same bill. With somewhat of monotonous and ostentatious iteration we have been asked whether incorporating general legislation in appropriation bills is revolution, or revolutionary? No one in my hearing has ever so contended.

Each House is empowered by the Constitution to make rules governing the modes of its own procedure. The rules permitting, I know of nothing except convenience, common sense, and the danger of log-rolling combinations, which forbids putting all the appropriations into one bill, and in the same bill, all the revenue laws, a provision admitting a State into the Union, another paying a pension to a widow, and another changing the name of a steamboat. The votes and the executive approval which would make one of these provisions a law,

would make them all a law. The proceeding would be outlandish, but it would not violate the Constitution.

A Senator might vote against such a huddle of incongruities, although separately he would approve each one of them. If however they passed both Houses in a bunch, and the Executive found no objection to any feature of the bill on its merits, and the only criticism should be that it would have been better legislative practice to divide it into separate enactments, it is not easy to see on what ground a veto could stand.

The assault which has been made on the executive branch of the Government, and on the Constitution itself, would not be less flagrant if separate bills had been resorted to as the weapons of attack. Suppose in a separate bill, the majority had, in advance of appropriations, repealed the national-bank act and the resumption act, and had declared that unless the Executive surrendered his convictions and yielded up his approval of the repealing act, no appropriations should be made; would the separation of the bills have palliated or condoned the revolutionary purpose? In the absence of an avowal that appropriations were to be finally withheld, or that appropriations were to be made to hinge upon the approval or veto of something else, a resort to separate bills might have cloaked and secreted for a time the real meaning of the transaction. In that respect it would have been wise and artful to resort to separate bills on this occasion; and I speak I think, in the hearing of at least one democratic Senator who did not overlook in advance the suggestion now made. But when it is declared, or intended, that unless another species of legislation is agreed to, the money of the people, paid for that purpose, shall not be used to maintain their Government and to enforce the laws—when it is designed that the Government shall be thrown into confusion and shall stop unless private charity or public succor comes to its relief, the threat is revolutionary, and its execution is treasonable.

In the case before us, the design to make appropriations hinge and depend upon the destruction of certain laws, is plain on the face of the bills before us,—the bill now pending, and another one on our tables. The same design was plain on the face of the bills sent us at the last session. The very fact that the sections uncovering the ballot-box to violence and fraud, are not, and never have been separately presented, but are thrust into appropriation bills, discloses and proves a belief, if not a knowledge, that in a separate bill the Executive would not approve them. Moreover both Houses have rung with the assertion that the Executive would not approve in a separate measure the overthrow of existing safeguards of the ballot-box, and that should he refuse to give his approval to appropriations and an overthrow of those safeguards linked together, no appropriations should be made.

The plot and the purpose then, is by duress to compel the Executive to give up his convictions, his duty, and his oath, as the price to be paid a political party for allowing the Government to live! Whether the bills be united or divided is mere method and form. The substance in either form is the same, and the plot if persisted in will bury its aiders and abettors in opprobrium, and will leave a buoy on the sea of time warning political mariners to keep aloof from a treacherous channel in which a political party foundered and went down.

The size of the Army and its pay, have both been exactly fixed by law—by law enacted by a democratic House, and approved by a second democratic House. It has been decided and voted that the coast

defenses and the Indian and frontier service, require a certain number of soldiers; and the appropriations needed for provision and pay have been ascertained to a farthing. Nothing remains to be done, but to give formal sanction and warrant for the use of the money from time to time. This was all true at the last session. But a democratic House, or more justly speaking the democratic majority in the House refused to give its sanction, refused to allow the people's money to reach the use for which the people paid it, unless certain long-standing laws were repealed. When the Senate voted against the repeal, we were bluntly told that unless that vote was reversed, unless the Senate and the Executive would accept the bills, repealing clauses and all, the session should die, no appropriations should be made, and the wheels of the Government should stop. The threat was executed; the session did die, and every branch of the Government was left without the power to execute its duties after the 30th of next June.

We were further told that when the extra session, thus to be brought about, should convene, the democrats would rule both Houses, that the majority would again insist on its terms, and that then unless the Executive submitted to become an accomplice in the design to fling down the barriers that block the way to the ballot-box against fraud and force, appropriations would again be refused, and again the session should die leaving the Government paralyzed. The extra session has convened; the democrats have indeed the power in both Houses, and thus far the war and the caucus have come up to the manifesto. So far the exploit has been easy. The time of trial is to come; the issue has been made, and of its ignominious failure, there can be no doubt if the Executive shall plant itself on constitutional right and duty, and stand firm. The actors in this scheme have managed themselves and their party into a predicament, and unless the President lets them out they will and they must back out. [Laughter, and manifestations of applause in the galleries.]

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) Order.

Mr. CONKLING. Should the Executive interpose the constitutional shield against the political enormities of the proposed bills, and then should the majority carry out the threat to desert their posts by adjournment without making the needed appropriations, I hope and trust they will be called back instantly and called back as often as need be until they relinquish a monstrous pretension and abandon a treasonable position.

The Army bill now pending, is not, in its political features, the bill tendered us at the last session a few days ago; it is not the same bill then insisted on as the ultimatum of the majority. The bill as it comes to us now, condemns its predecessor as crude and objectionable. It was found to need alteration. It did need alteration badly, and those who lately insisted on it as it was, insist on it now as it then was not. A grave proviso has been added to save the right of the President to aid a State gasping in the throes of rebellion or invasion and calling for help. As the provision stood when thrust upon us first and last at the recent session, it would have punished as a felon the President of the United States, the General of the Army, and others, for attempting to obey the Constitution of the United States and two ancient acts of Congress, one of them signed by George Washington. Shorn of this absurdity, the bill as it now stands, should it become a law, will be the first enactment of its kind that ever found its way into the statutes of the United States. A century, with all its activities and party strifes with all its passionate discords, with

all its expedients for party advantage, with all its wisdom and its folly, with all its patriotism and its treason, has never till now produced a congressional majority which deemed such a statute fit to be enacted.

Let me state the meaning of the amendments proposed under guise of enlarging liberty on election day—that day of days when order, peace, and security for all, as well as liberty, should reign. The amendments declare in plain legal effect that, no matter what the exigency may be, no matter what violence or carnage may run riot and trample down right and life, no matter what mob brutality may become master, if the day be election day, any officer or person, civil, military, or naval, from the President down, who attempts to interfere to prevent or quell violence by the aid of national soldiers, or armed men not soldiers, shall be punished, and may be fined $5,000 and imprisoned for five years. This is the law we are required to set up. Yes, not only to leave murderous ruffianism untouched, but to invite it into action by assurances of safety in advance.

In the city of New York, all the thugs and shoulder-hitters and repeaters, all the carriers of slung-shot, dirks, and bludgeons, all the fraternity of the bucket-shops, the rat-pits, the hells and the slums, all the graduates of the nurseries of modern so-called democracy, [laughter;] all those who employ and incite them, from King's Bridge to the Battery, are to be told in advance that on the day when the million people around them choose their members of the National Legislature, no matter what God-daring or man-hurting enormities they may commit, no matter what they do, nothing they can do will meet with the slightest resistance from any national soldier or armed man clothed with national authority.

Another bill, already on our tables, strikes down even police officers armed, or unarmed, of the United States.

In South Carolina, in Louisiana, in Mississippi, and in the other States where colored citizens are counted to swell the representation in Congress and then robbed of their ballots and dismissed from the political sum—in all such States, every rifle club, and white league, and murderous band, and every tissue ballot box stuffer, night-rider, and law-breaker is to be told that they may turn national elections into a bloody farce, that they may choke the whole proceeding with force and fraud and blood, and that the nation shall not confront them with one armed man. State troops, whether under the name of rifle clubs or white leagues, or any other, armed with the muskets of the United States, may constitute the mob, may incite the mob, but the national arm is to be tied and palsied.

I repeat such an act of Congress has never yet existed. If there ever was a time when such an act could safely and fitly stand upon the statute-book, that time is not now, and is not likely to arrive in the near future. Until rebellion raised its iron hand, all parties and all sections had been content to leave where the Constitution left it the power and duty of the President to take care that the laws be faithfully executed. The Constitution has in this regard three plain commands:

The President "shall take care that the laws be faithfully executed."

Again, "The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

"The actual service of the United States" some man may say means war merely, service in time of war. Let me read again, "Congress shall have power to provide for calling forth the militia." For what? First of all, "to execute the laws of the Union."

Yes, Congress shall have power "to provide for calling forth the militia to execute the laws of the Union." Speaking to lawyers, I venture to emphasize the word "execute." It is a term of art; it has a long-defined meaning. The act of 1795, re-enacted since, emphasized these constitutional provisions.

Here it is, section 5298 of the Revised Statutes.

Whenever, *by reason of unlawful obstruction, combinations, or assemblages of persons,* or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, *it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States,* or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, *or the execution thereof forcibly obstructed.*

That section, enacted in substance during the administration of Washington, drawn and voted for by the men who framed the Constitution, only supplemented the provisions I have read. It has stood for eighty-four years unchallenged.

These constitutional provisions, enforced by the act to which the Senate has listened, were, and to-day are, the only authority under which the soldiers of the nation can go on election day or any other day to the polls or elsewhere within the jurisdiction of a State to quell violence and enforce law. If under these provisions armed men cannot be employed to subdue violence at the polls on the day of a national election, they cannot be employed at all; for there is, as I shall argue and as I think I shall demonstrate, no other authority for it; certainly none in the act which we are invited to strike down. If there was during eighty years of acquiescence too much latitude given to the President or the Army by the Constitution and by the act of 1795, that latitude was curtailed on the 18th of June, 1878. On that recent date, this provision became a law:

SEC. 15. From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States, as a *posse comitatus,* or otherwise, for the purpose of executing the laws, *except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress;* and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding $10,000, or imprisonment not exceeding two years, or by both such fine and imprisonment.

Mark the language, a penal statute visiting with penalty the President and everybody else who attempts to employ troops in any case unless the Constitution or an act of Congress "expressly," not alone by implication, not alone by the spirit, which makes alive, but by the very letter which sometimes kills, authorizes such employment. So thoroughly is the Constitution hedged about already. I have said and I repeat that the act of 1865, against which this repeal is leveled, contains no authority, none whatever, under which any one soldier or any one armed man may go for the purpose of keeping the peace, or for any other purpose, to the polls on a national election day. Let me read the section aimed at by the amendment, and the section which immediately follows it, both of which were enacted as part of the statute of 1865:

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, *or to keep the peace at the polls.*

Mark the following section:

SEC. 2003. No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. (See sections 5530–5532.)

Does any lawyer listen to those two sections and know that they stood together in the act of 1865, and yet doubt that the act was a mere penal and restraining act? It conferred no power. It was designed for no such thing. It diminished, curtailed, restrained the olden power which from time immemorial had resided in the persons the section describes.

Mr. President, let me go back a moment, for I think, after reading some remarks which fell from the distinguished Senator from Illinois now before me [Mr. DAVIS,] it is somewhat important that the Senate should know that I am right or know that I am wrong in this particular. I have said that the act of 1865 gives no authority to troops or armed men to visit the polls at which an election is being held. I have said that the power of the President resides in the act of 1795 and in the Constitution, and I add that until 1864 these constitutional provisions had always been deemed not only a suitable grant of power, but a sufficiently guarded grant.

National jurisdiction,—by that I mean the right of national authority to interpose—depends sometimes upon the *locus* as lawyers say, thereby meaning the place, and sometimes on the occasion without reference to place.

In a fort, an arsenal, a dock-yard, and in every other place under the sole jurisdiction of the United States, the national authority may always go to preserve the peace and to reign and dwell there. In the States, and everywhere in every State, on every rood of our soil, the national authority may always go, and lawfully go, when any act is to be done or law enforced in virtue of the Constitution of the United States.

The law protecting and regulating national elections is a law in virtue of the Constitution of the United States. The execution of that law is an act under and in virtue of that Constitution. It follows that it is one of the laws which the President is empowered and commanded to take care to have faithfully executed. It is one of "the laws of the Union" which he may command the militia as well as the national forces to execute. It is one of the laws in respect of which, when need be, he may exert all the power, civil and military, which he may exert, to execute any law whatever.

Are we to be told that the act protecting elections is unconstitutional, and therefore not valid and not "a law of the Union?" It is too late to say that. The democratic House, and what is more absolute, the democratic caucus, have abandoned the constitutional argument. They have decided that the election law is a valid constitutional law, and the judgment stands recorded in the legislative, executive and judicial bill lying on our tables as pending in the House. They recognize the election act; they deal with it; they assume that it exists. They cripple it, it is true; they cunningly emasculate it, they provide for its safe and easy violation and evasion. They so change it as to make a smooth and tempting walk for every ballot-box-stuffer and ruffian who would marand upon the ballot-box, but they recognize it all the time, and deal with it as a valid constitutional enactment.

I said, and I repeat, that the authority to enforce this law resides

in the Constitution and in the act of 1795. I said, and I repeat, that until 1864 no curb, no limitation, had ever been placed by Congress upon the right and duty to execute law and preserve peace on election day or any other day.

In 1861–'62 General McClellan, General Dix, General Schenck, and others, military commanders, issued orders in which they not only excluded disloyal voters from the polls, but undertook in some sort to prescribe the qualification of electors. General McClellan was a democrat and must be supposed to have been inspired in all the meanings and limitations of the Constitution. I never knew a democrat during the war, even if he could not read the Constitution by its title, who was not profoundly instructed and vehemently certain of all prohibitions of that famous instrument. General McClellan issued an order not only regulating elections, but suspending the privilege of the writ of *habeas corpus*, in order that at elections military authority might have full sway.

Here it is:

HEADQUARTERS ARMY OF THE POTOMAC,
Washington, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this, the major-general commanding—

That was General McClellan—

directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held to protect the Union voters, and to see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights.

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently and who show themselves at the polls, and to guard effectually against any invasion of the peace and order of the election.

For the purpose of carrying out these instructions you are authorized to suspend the *habeas corpus*. General Stone has received similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,

R. B. MARCY,
Chief of Staff.

Major-General N. P. BANKS,
Commanding Division, Muddy Branch, Maryland.

The democratic party did not learn for some time afterward how monstrous it is to confront ruffians with armed force. Indeed, the tender constitutional susceptibilities of that great organization were not then keenly alive to the wrong of trampling under foot that great prerogative writ, and boast of Anglo-Saxon freedom and jurisprudence, the *habeas corpus*.

Three years later the democrats met in national convention. The convention resolved that the war for the Union was a failure, a failure just at the time when it was about to triumph utterly, as it would have done long before but for incitement and encouragement given by northern democrats to the rebellion. Having recorded this sage, patriotic, and statesman-like judgment, the convention proceeded to nominate for President of the United States and Commander-in-Chief of the Army and Navy the very man who had sent soldiers to act as overseers of elections, who had trampled down by military force the privilege of the *habeas corpus*, and this, do not forget, in Maryland,—Maryland, a State in the Union, not even a seceded State.

Delaware too, was protected at her elections by military force, under military orders, and the governor of that State thanked the national authorities for that protection, approved it and aided it.

But these orders went very far. They prescribed with military rigor the qualification of voters, and rough proceedings no doubt ensued. The sword is not a mathematical instrument, it is not as exact as the guillotine, not as exact as the headsman's axe, nor even as the dagger, the bullet, or the halter of the assassin.

These orders prompted the act of 1865, not to confer power, I cannot repeat too often, but to restrain and curtail it.

The bill was introduced by Mr. Powell of Kentucky, that Senator who when the enrollment act came from the House is said to have remarked, "Go on with your draft; I feel no interest in it; Kentucky's quota is full on both sides." The bill was referred to the Military Committee of the Senate. On the 12th of February, 1864, the Military Committee reported against it, and for the time being that was the end of it.

A year later, having meantime been taken up and amended, amended as it now stands, it was passed. Every democratic Senator who voted voted for it as it stands now. Every democrat in the House who voted voted for the act as it stands now. Nay more; after it had been amended as it now is, after the words "except when necessary to keep the peace at the polls," had been established in it, Mr. Powell, a democrat from Kentucky, and other democratic members of the Senate again and again, as the Senator from Iowa knows, for he has just traversed the debate, urged the Senate, importuned the Senate to take up this now obnoxious act, amended as it now stands, and put it on its passage. Was it not so?

Mr. ALLISON. Yes, sir.

Mr. CONKLING. Mr. President, the act of 1865 was not, as the honorable Senator from Illinois stated, a war measure, to operate only in time of war. No, sir; it was passed in 1865, passed when Grant was tightening the coils around Richmond, passed when Sherman, everywhere victorious in the South, had led his conquering legions from the mountains to the sea. It was passed when the rebellion was in the very article of death. In less than sixty days the confederacy as a military fact had become a vanished dream. No, sir; it was passed at the end of a great war, and passed to put a bridle on permission, and power which had gone unchecked for three-quarters of a century during which statesmen had lived—for there were brave men before Agamemnon. It was meant to be, it was said to be, and it is, a mere check. It punishes ordering troops to approach the polls, except that when the order is for a lawful purpose it is not included.

Does that, I ask the honorable Senator from Illinois, confer authority upon anybody? Take an analogous case. Here is a statute,—the books of both hemispheres bristle with them,—denouncing homicide. What do they declare? The killing of a human being with *prepense* aforethought, shall be murder; but they except, or the court interpolates into them as an exception, the act of a sheriff in executing a criminal. That act shall not be punished. Did any lawyer ever hear that under a statute of that sort a sheriff might proceed to hang a man? Did anybody ever hear that if a statute punished an act and said "except it be lawfully done," that statute furnished the authority for doing it, or had any possible effect save only to say that, when lawfully done, when authority otherwise existed to do it, it should not be held punishable? A sheriff must have a death-warrant of a competent tribunal, and an express enabling statute when he proceeds to deprive a human being of life; without that he would be a murderer just as much under a statute excepting lawful executions from punishment as homicides, as without such a statute. So when

a statute declares that troops shall be punished if they act except in a given condition of things, they must still be authorized, they must have authority on which to act as much as the sheriff must have authority on which to execute.

Again, this act forbids civil officers to have soldiers or armed men not soldiers at the polls, except it be necessary to quell violence. The amendment proposes to punish civil officers for trying to subdue rioters or mobs by soldiers or by calling upon men not soldiers if they are armed in any way; and this, we are told, is to subordinate the military to the civil authority!

Again, the act as it stands forbids, except in the case for which there may be authority, the presence of troops at the "place" at which an election is to be held. What does "place" mean? I ask emphatically what does "place" mean? The honorable Senator from Delaware cited the other day at great length an instance in which troops had been present in the city of New York within the meaning of this act, when they were conspicuously absent from every polling place; not allowed to go, even one at a time, to any polling place for any purpose whatever. Under this interpretation "place" must be construed to mean a whole city or a township, and under the proposed amendment so construed, on a day when election is held every soldier must be banished from the whole Island of Manhattan, and never allowed to return during the day even though the entire city should be wrapped in flames or sacked by mobs.

Again, the act of 1865 forbids the presence of soldiers save only when *necessary* to preserve the peace. My honorable friend from Connecticut smiles——

Mr. EATON. I do. Necessity is the plea of tyrants.

Mr. CONKLING. That is the lawyer's smile. My honorable friend knows as well as I know—we do not differ—that a statute providing that a thing may be done when necessary, commits to the discretion of somebody authority to judge of that necessity. No doubt of it. No doubt the discretion may be abused. All human discretion may be abused; almost if not all human discretion has been abused since the morning of time. The governor of every State may abuse similar discretion every day in the year; so may every sheriff, mayor, and constable. The President may mistake or abuse the discretion which calls for his judgment; he may do it under other statutes and provisions every other day in the three hundred and sixty-five. What is there, in God's name what is there in a Republic operating by universal suffrage and governed by majorities, which should pick out election day and hand that day over a prey to unchallenged ruffianism, brutality, and disorder?

Connected with the amendment we are now considering and a part of it, is the act for protecting and regulating national elections. That act applies to cities of twenty thousand or more inhabitants. It provides that two persons may be appointed by the court, not to act as overseers, but as supervisors of registration, voting and counting at national elections. One is to be a democrat, one is to be a republican. That is to prevent either side having advantage over the other. In rural regions with sparse populations, no provision is made. There, as a rule, all voters are known to each other; there, the danger of mobs and tumults is comparatively slight. In the large cities the case is different. There, these two supervisors are to see fair play: that is the whole of it. They have no powers, nor have the deputy marshals any power, not from time immemorial and from necessity reposed in all the States, as far as I know, in the inspectors of elec-

tion. I read the provision as it stands in my own State, and I ask the Senate to mark what sort of power it confers on every inspector of election:

If any person shall willfully disobey any lawful commands of the board of inspectors of any election, or shall willfully and without lawful authority, obstruct, hinder, or delay any elector on his way to any poll where an election shall be held, or while he is exercising or attempting to exercise the right of voting, or shall aid or assist in such obstruction or delay, he shall, on conviction, be adjudged guilty of a misdemeanor, and be fined in a sum not exceeding $250, and may be imprisoned, in the discretion of the court, for not more than six months.

All these inspectors under this act are such "potentates and powers" that any man who dares to disobey their commands is to be punished; and yet the sensibilities of the gifted and ardent Senator from Indiana [Mr. VOORHEES] palpitated with indignant emotion when he thought of youth and age meeting at the polls and voting, with two persons, one democrat and one republican looking right at them when they did it; looking on to see that the receiver of ballots did not destroy or change them but put them in the box, and afterward to see that the ballots were honestly counted after youth and age had gone home to supper. I listened to a recital of that ordeal, and I made up my mind that on such an occasion youth and age after the day's fitful struggle might sleep well.

The election law came in to correct abuses which reached their climax in 1868 in the city of New York. In that year in the State of New York the republican candidate for governor was elected; the democratic candidate was counted in. Members of the Legislature were fraudulently seated. The election was a barbarous burlesque. Many thousand forged naturalization papers were issued; some of them were white and some were coffee-colored. The same witnesses purported to attest hundreds and thousands of naturalization affidavits, and the stupendous fraud of the whole thing was and is an open secret. Some of these naturalization papers were sent to other States. So plenty were they, that some of them were sent to Germany, and Germans who had never left their country claimed exemption from the German draft for soldiers in the Franco-Prussian war, because they were naturalized American citizens! [Laughter.]

The holders of these papers voted by thousands, and I have heard it said in this debate that Judge Blatchford has decided that these papers are legal. Never. I see the Senator from West Virginia [Mr. HEREFORD] nod. He does not nod very forcibly, but he nods enough to induce me to stop and read from the judgment of Judge Blatchford. Judge Blatchford passed upon a case made—lawyers will understand what that is—presenting a pure question of law. What was the question? Whether certain papers on deposit or on file in court in and of themselves, assuming their verity, assuming that they were genuine, constituted a record in the eye of the law. There was no question tried or decided whether they were forged or not; no question whether they were fraudulent or not; no question whether they had been signed, as some of them had been, with the name of officers appearing on their face who never were elected until long after the paper was issued; but on the naked question presented to him, Judge Blatchford spoke. He refers to another case in which the same question had been presented, and says:

The sole ground of such application was that the validity of the admission of the party to citizenship was disputed, on the allegation that there was no legal record of the judgment admitting him to citizenship,—

Why? I ask the Senate to mark—

for the reason that the clerk of the court did not write out an entry in the minute-

book of the court reciting the proceedings and showing the adjudication made. This is the same point now urged here.

There is the point of the decision and the whole of it as I understand.

I say thousands of men voted upon fraudulent naturalization papers. But all this was tame and paltry compared with other enormities. The city of New York was redistricted from time to time—sometimes so districted as to bisect blocks, and denizens of the same building could vote in different election precincts. In some cases the democratic majority was larger than the whole number of men, women, children, horses, cats, and dogs in the district, [laughter,] and I speak not in rhetorical figures but in Arabic figures.

Repeating, ballot-box stuffing, ruffianism, and false counting decided everything. Tweed made the election officers, and the election officers were corrupt. In 1868, thirty thousand votes were falsely added to the democratic majority in the cities of New York and Brooklyn alone. Taxes and elections were the mere spoil and booty of a corrupt junta in Tammany Hall. Assessments, exactions, and exemptions were made the bribes and the penalties of political submission. Usurpation and fraud inaugurated a carnival of corrupt disorder; and obscene birds without number swooped down to the harvest and gorged themselves on every side in plunder and spoliation. Wrongs and usurpations springing from the pollution and desecration of the ballot-box stalked high-headed in the public way. The courts and the machinery of justice were impotent in the presence of culprits too great to be punished.

The act of 1870 came in to throttle such abuses. It was not born without throes and pangs. It passed the Senate after a day and a night which rang with democratic maledictions and foul aspersions.

In the autumn of that year an election was held for the choice of Representatives in Congress. I see more than one friend near me who for himself and for others has reason even unto this day to remember that election and the apprehension which preceded it. It was the first time the law of 1870 had been put in force. Resistance was openly counseled. Democratic newspapers in New York advised that the officers of the law be pitched into the river. Disorder was afoot. Men, not wanting in bravery, and not republicans, dreaded the day. Bloodshed, arson, riot were feared. Ghastly spectacles were still fresh in memory. The draft riots had spread terror which had never died, and strong men shuddered when they remembered the bloody assizes of the democratic party. They had seen men and women, blind with party hate, dizzy and drunk with party madness, stab and burn and revel in murder and in mutilating the dead. They had seen an asylum for colored orphans made a funeral pile, and its smoke sent up from their Christian and imperial city to tell in heaven of the inhuman bigotry, the horrible barbarity of man. Remembering such sickening scenes, and dreading their repetition, they asked the President to protect them—to protect them with the beak and claw of national power. Instantly the unkenneled packs of party barked in vengeful chorus. Imprecations, maledictions, and threats were hurled at Grant; but with that splendid courage which never blanched in battle, which never quaked before clamor—with that matchless self-poise which did not desert him even when a continent beyond the sea rose and uncovered before him, [applause in the galleries,] he responded in the orders which it has pleased the honorable Senator from Delaware to read. The election thus protected was the fairest, the freest, the most secure, a generation had

seen. When, two years afterward, New York came to crown Grant with her vote, his action in protecting her chief city on the Ides of November, 1870, was not forgotten. When next New York has occasion to record her judgment of the services of Grant, his action in 1870 touching peace in the city of New York will not be hidden away by those who espouse him wisely. [Applause in the galleries.]

Now, the election law is to be emasculated; no national soldier must confront rioters or mobs; no armed man by national authority, though not a soldier, must stay the tide of brutality or force; no deputy marshal must be within call; no supervisor must have power to arrest any man who in his sight commits the most flagrant breach of the peace. But the democrats tell us "we have not abolished the supervisors; we have left them." Yes, the legislative bill leaves the supervisors, two stool-pigeons with their wings clipped, [laughter,] two licensed witnesses to stand about idle, and look—yes, "a cat may look at a king"—but they must not touch bullies or lawbreakers, not if they do murders right before their eyes.

If a civil officer should, under the pending amendment, attempt to quell a riot by calling on the bystanders, if they have arms, he is punishable for that. If a marshal, the marshal of the district in which the election occurs, the marshal nominated to the Senate and confirmed by the Senate—I do not mean a deputy marshal—should see an affray or a riot at the polls on election day and call upon the bystanders to quell it, if this bill becomes a law, and one of those bystanders has a revolver in his pocket, or another one takes a stick or a cudgel in his hand, the marshal may be fined $5,000 and punished by five years' imprisonment.

Such are the devices to belittle national authority and national law, to turn the idea of the sovereignty of the nation into a laughing-stock and a by-word.

Under what pretexts, is this uprooting and overturning to be? Any officer who transgresses the law, be he civil or military, may be punished in the courts of the State or in the courts of the nation under existing law. Is the election act unconstitutional? The courts for ten years have been open to that question. The law has been pounded with all the hammers of the lawyers, but it has stood the test; no court has pronounced it unconstitutional, although many men have been prosecuted and convicted under it. Judge Woodruff and Judge Blatchford have vindicated its constitutionality. But, as I said before, the constitutional argument has been abandoned. The supreme political court, practically now above Congresses or even constitutions, the democratic caucus, has decided that the law is constitutional. The record of the judgment is in the legislative bill.

We are told it costs money to enforce the law. Yes, it costs money to enforce all laws; it costs money to prosecute smugglers, counterfeiters, murderers, mail robbers and others. We have been informed that it has cost $200,000 to execute the election act. It cost more than $5,000,000,000 in money alone, to preserve our institutions and our laws, in one war, and the nation which bled and the nation which paid is not likely to give up its institutions and the birthright of its citizens for $200,000. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The Senator will suspend a moment. The Chair will announce to the galleries that there shall be no more applause; if so, the galleries will be cleared immediately.

Mr. CONKLING. Mr. President, that interruption reminds me, the present occupant of the chair having been deeply interested in

the bill, that the appropriations made and squandered for local and unlawful improvements in the last river and harbor bill, alone, would pay for executing the election law as long as grass grows or water runs. The interest on the money wrongfully squandered in that one bill, would execute it twice over perpetually. The cost of this needless extra session, brought about as a partisan contrivance, would execute the election law for a great while. A better way to save the cost, than to repeal the law, is to obey it. Let White Leagues and rifle clubs disband; let your night-riders dismount; let your tissue ballot box stuffers desist; let repeaters, false-counters, and ruffians no longer be employed to carry elections, and then the cost of executing the law will disappear from the public ledger.

Again, we are told that forty-five million people are in danger from an army nominally of twenty-five thousand men scattered over a continent, most of them beyond the frontiers of civilized abode. Military power has become an affrighting specter. Soldiers at the polls, are displeasing to a political party. What party? That party whose Administration ordered soldiers, who obeyed, to shoot down and kill unoffending citizens here in the streets of Washington on election day; that party which has arrested and dispersed Legislatures at the point of the bayonet; that party which has employed troops to carry elections to decide that a State should be slave and should not be free; that party which has corraled courts of justice with national bayonets, and hunted panting fugitive slaves, in peaceful communities, with artillery and dragoons; that party which would have to-day no majority in either House of Congress except for elections dominated and decided by violence and fraud; that party under whose sway, in several States, not only the right to vote, but the right to be, is now trampled under foot.

Such is the source of an insulting summons to the Executive to become *particeps criminis* in prostrating wholesome laws, and this is the condition on which the money of the people, paid by the people, shall be permitted to be used for the purposes for which the people paid it.

Has the present national Administration been officiously robust in checking the encroachments and turbulence of democrats, either by the use of troops or otherwise? I ask this question because the next election is to occur during the term of the present Administration. What is the need of revolutionary measures now? What is all this uproar and commotion, this daring venture of partisan experiment, for? Why not make your issue against these laws, and carry your issue to the people? If you can elect a President and a Congress of your thinking, you will have it all your own way.

Why now should there be an attempt to block the wheels of government on the eve of an election at which this whole question is triable before the principals and masters of us all? The answer is inevitable. But one truthful explanation can be made of this daring enterprise. It is a political, a partisan manœuvre. It is a strike for party advantage. With a fair election and an honest count, the democratic party cannot carry the country. These laws, if executed, insure some approach to a fair election. Therefore they stand in the way, and therefore they are to be broken down.

I reflect upon no man's motives, but I believe that the sentiment which finds expression in the transaction now proceeding in the two Houses of Congress, has its origin in the idea I have stated. I believe that the managers and charioteers of the democratic party think that with a fair election and a fair count they cannot carry the State of New York. They know that with free course, such as

existed in 1868, to the ballot-box and count, no matter what majority may be given in that State where the green grass grows, the great cities will overbalance and swamp it. They know that with the ability to give eighty, ninety, one hundred thousand majority in the county of New York and the county of Kings, half of it fraudulently added, it is idle for the three million people living above the Highlands of the Hudson, to vote.

This is a struggle for power. It is a fight for empire. It is a contrivance to clutch the National Government. That we believe; that I believe.

The nation has tasted, and drank to the dregs, the sway of the democratic party, organized and dominated by the same influences which dominate it again and still. You want to restore that dominion. We mean to resist you at every step and by every lawful means that opportunity places in our hands. We believe that it is good for the country, good for every man North and South who loves the country now, that the Government should remain in the hands of those who were never against it. We believe that it is not wise or safe to give over our nationality to the dominion of the forces which formerly and now again rule the democratic party. We do not mean to connive at further conquests, and we tell you that if you gain further political power, you must gain it by fair means, and not by foul. We believe that these laws are wholesome. We believe that they are necessary barriers against wrongs, necessary defenses for rights; and so believing, we will keep and defend them even to the uttermost of lawful honest effort.

The other day, it was Tuesday I think, it pleased the honorable Senator from Illinois [Mr. DAVIS] to deliver to the Senate an address, I had rather said an opinion, able and carefully prepared. That honorable Senator knows well the regard not only, but the sincere respect in which I hold him, and he will not misunderstand the freedom with which I shall refer to some of his utterances. Whatever else his sayings fail to prove, they did I think, prove their author, after Mrs. Winslow, the most copious and inexhaustible fountain of soothing sirup. The honorable Senator seemed like one slumbering in a storm and dreaming of a calm. He said there was no uproar anywhere—one would infer you could hear a pin drop,—from center to circumference. Rights, he said, are secure. I have his language here. If I do not seem to give the substance aright I will stop and read it. Rights secure North and South; peace and tranquillity everywhere. The law obeyed and no need of special provisions or anxiety. It was in this strain that the Senator discoursed.

Are rights secure, when fresh-done barbarities show that local government in one portion of our land is no better than despotism tempered by assassination! Rights secure, when such things can be, as stand proved and recorded by committees of the Senate! Rights secure, when the old and the young fly in terror from their homes, and from the graves of their murdered dead! Rights secure, when thousands brave cold, hunger, death, seeking among strangers in a far country a humanity which will remember that—

> "Before man-made them citizens,
> Great nature made them men!"

Read the memorial signed by Judge Dillon, by the democratic mayor of Saint Louis, by Mr. Henderson once a member of the Senate, and by other men known to the nation, detailing what has been done in recent weeks on the Southern Mississippi. Read the affidavits accompanying this memorial. Has any one a copy of the memo-

rial here? I have seen the memorial. I have seen the signatures. I hope the honorable Senator from Illinois will read it, and read the affidavits which accompany it. When he does, he will read one of the most sickening recitals of modern times. He will look upon one of the bloodiest and blackest pictures in the book of recent years. Yet the Senator says, all is quiet. "There is not such faith, no not in Israel." Verily "order reigns in Warsaw."

Solitudinem faciunt, pacem appellant.

Mr. President, the republican party everywhere wants peace and prosperity—peace and prosperity in the South, as much and as sincerely as elsewhere. Disguising the truth, will not bring peace and prosperity. Soft phrases will not bring peace. "Fair words butter no parsnips." We hear a great deal of loose flabby talk about "fanning dying embers," "rekindling smoldering fires," and so on. Whenever the plain truth is spoken, these unctuous monitions, with a Peter Parley benevolence, fall copiously upon us. This lullaby and hush has been in my belief a mistake from the beginning. It has misled the South and misled the North. In Andrew Johnson's time a convention was worked up at Philadelphia, and men were brought from the North and South, for ecstasy and gush. A man from Massachusetts and a man from South Carolina locked arms and walked into the convention arm in arm, and sensation and credulity palpitated, and clapped their hands, and thought an universal solvent had been found. Serenades were held at which "Dixie" was played. Later on, anniversaries of battles fought in the war of Independence, were made occasions by men from the North and men from the South for emotional, dramatic, hugging ceremonies. General Sherman I remember, attended one of them, and I remember also, that with the bluntness of a soldier, and the wisdom and hard sense of a statesman, he plainly cautioned all concerned not to be carried away, and not to be fooled. But many have been fooled, and being fooled, have helped to swell the democratic majorities which now display themselves before the public eye.

Of all such effusive demonstrations I have this to say: honest, serious convictions are not ecstatic or emotional. Grave affairs and lasting purposes do not express or vent themselves in honeyed phrase or sickly sentimentality, rhapsody, or profuse professions.

This is as true of political as of religious duties. The Divine Master tells us, "Not every one that saith unto me, Lord, Lord, shall enter into the kingdom of heaven; but he that doeth the will of my Father which is in Heaven."

Facts are stubborn things, but the better way to deal with them is to look them squarely in the face.

The republican party and the northern people preach no crusade against the South. I will say nothing of the past beyond a single fact. When the war was over, no man who fought against his flag was punished even by imprisonment. No estate was confiscated. Every man was left free to enjoy life, liberty, and the pursuit of happiness. After the Southern States were restored to their relations in the Union, no man was ever disfranchised by national authority—not one. If this statement is denied I invite any Senator to correct me. I repeat it. After the southern State governments were rebuilded, and the States were restored to their relations in the Union, by national authority not one man for one moment was ever denied the right to vote, or hindered in the right. From the time that Mississippi was restored, there never has been an hour when Jefferson Davis might not vote as freely as the honorable Senator in his State of Illi-

nois. The North, burdened with taxes, draped in mourning, dotted over with new-made graves tenanted by her bravest and her best, sought to inflict no penalty upon those who had stricken her with the greatest, and, as she believed, the guiltiest rebellion that ever crimsoned the annals of the human race.

As an example of generosity and magnanimity, the conduct of the nation in victory was the grandest the world has ever seen. The same spirit prevails now. Yet our ears are larumed with the charge that the republicans of the North seek to revive and intensify the wounds and pangs and passions of the war, and that the southern democrats seek to bury them in oblivion of kind forgetfulness.

We can test the truth of these assertions right before our eyes. Let us test them. Twenty-seven States adhered to the Union in the dark hour. Those States send to Congress two hundred and sixty-nine Senators and Representatives. Of these two hundred and sixty-nine Senators and Representatives, fifty-four, and only fifty-four, were soldiers in the armies of the Union. The eleven States which were disloyal send ninety-three Senators and Representatives to Congress. Of these, eighty-five were soldiers in the armies of the rebellion, and at least three more held high civil station in the rebellion, making in all eighty-eight out of ninety-three.

Let me state the same fact, dividing the Houses. There are but four Senators here who fought in the Union Army. They all sit here now; and there are but four. Twenty Senators sit here who fought in the army of rebellion, and three more Senators sit here who held high civil command in the confederacy.

In the House, there are fifty Union soldiers from twenty-seven States, and sixty-five confederate soldiers from eleven States.

Who, I ask you, Senators, tried by this record, is keeping up party divisions on the issues and hatreds of the war?

The South is solid. Throughout all its borders it has no seat here save two in which a republican sits. The Senator from Mississippi [Mr. BRUCE] and the Senator from Louisiana [Mr. KELLOGG] are still spared; and whisper says that an enterprise is afoot to deprive one of these Senators of his seat. The South is emphatically solid. Can you wonder if the North soon becomes solid too? Do you not see that the doings witnessed now in Congress fill the North with alarm, and distrust of the patriotism and good faith of men from the South? Forty-two democrats have seats on this floor; forty-three if you add the honorable Senator from Illinois, [Mr. DAVIS.] He does not belong to the democratic party, although I must say, after reading his speech the other day, that a democrat who asks anything more of him is an insatiate monster. [Laughter.] If we count the Senator from Illinois, there are forty-three democrats in this Chamber. Twenty-three is a clear majority of all, and twenty-three happens to be exactly the number of Senators from the South who were leaders in the late rebellion.

Do you anticipate my object in stating these numbers? For fear you do not, let me explain. Forty-two Senators rule the Senate; twenty-three Senators rule the caucus. A majority rules the Senate; a caucus rules the majority; and the twenty-three southern Senators rule the caucus. The same thing, in the same way, governed by the same elements, is true in the House.

This present assault upon the purity and fairness of elections, upon the Constitution, upon the executive department, and upon the rights of the people; not the rights of a king, not on such rights as we heard the distinguished presiding officer, who I am glad now to discover

in his seat, dilate upon of a morning some weeks ago; not the divine right of kings but the inborn rights of the people—the present assault upon them, could never have been inaugurated without the action of the twenty-three southern Senators here, and the southern Representatives there, [pointing to the House.]

The people of the North know this and see it. They see the lead and control of the democratic party again where it was before the war, in the hands of the South. "By their fruits ye shall know them." The honorable Senator from Alabama [Mr. MORGAN], educated no doubt by experience in political appearances, and spectacular effects, said the other day that he preferred the democrats from the North should go first in this debate. I admired his sagacity. It was the skill of an experienced tactician to deploy the northern levies as the sappers and miners; it was very becoming certainly. It was not from cruelty, or to make them food for powder, that he set them in the forefront of the battle; he thought it would appear better for the northern auxiliaries to go first and tunnel the citadel. Good, excellent, as far as it went; but it did not go very far in misleading anybody; putting the tail foremost and the head in the sand, only displayed the species and habits of the bird. [Laughter.]

We heard the other day, that the "logic of events," had filled the Southern seats here with men banded together by a common history and a common purpose. The Senator who made that sage observation perhaps builded better than he knew. The same logic of events, let me tell democratic Senators, and the communities behind them, is destined to bring from the North more united delegations.

I read in a newspaper that it was proposed the other day in another place, to restore to the Army of the United States men who, educated at the nation's cost and presented with the nation's sword, drew that sword against the nation's life. In the pending bill is a provision for the retirement of officers now in the Army, with advanced rank and exaggerated pay. This may be harmless, it may be kind. One swallow proves not spring, but along with other things, suspicion will see in it, an attempt to coax officers now in the Army to dismount, to empty their saddles, in order that others may get on.

So hue and cry is raised because courts on motion, for cause shown in open court, have a right to purge juries in certain cases. No man in all the South, under thirty-five years of age, can be affected by this provision, because every such man was too young when the armies of the rebellion were recruited, to be subject to the provision complained of. As to the rest, the discretion is a wholesome one. But even if it were not, let me say in all kindness to Southern Senators, it was not wise to make it a part of this proceeding, and raise this uproar in regard to it.

Even the purpose, in part already executed, to remove the old and faithful officers of the Senate, even Union soldiers, that their places may be snatched by others—to overturn an order of the Senate which has existed for a quarter of a century, in order to grasp all the petty places here, seems to me unwise. It is not wise, if you want to disarm suspicion that you mean aggrandizing, gormandizing, unreasonable things.

Viewing all these doings in the light of party advantage—advantage to the party to which I belong, I could not deplore them; far from it; but wishing the repose of the country, and the real, lasting, ultimate welfare of the South, and wishing it from the bottom of my heart, I believe they are flagrantly unwise, hurtfully injudicious.

What the South needs is to heal, build, mend, plant, sow. In short,

to go to work. Invite labor; cherish it; do not drive it out. Quit proscription, both for opinion's sake, and for color's sake. Reform it altogether. I know there are difficulties in the way. I know there is natural repugnance in the way; but drop passion, drop sentiment which signifies naught, and let the material prosperity and civilization of your land advance. Do not give so much energy, so much restless, sleepless activity, to an attempt so soon to get possession once more, and dominate and rule the country. There is room enough at the national board, and it is not needed, it is not decorous, plainly speaking, that the South should be the Mac Gregor at the table, and that the head of the table should be wherever he sits. For a good many reasons, it is not worth while to insist upon it.

Mr. President, one of Rome's famous legends stands in these words: "Let what each man thinks of the Republic be written on his brow." I have spoken in the spirit of this injunction. Meaning offense to no man, and holding ill-will to no man, because he comes from the South, or because he differs with me in political opinion, I have spoken frankly, but with malice toward none.

This session, and the bill pending, are acts in a partisan and political enterprise. This debate, begun after a caucus had defined and clenched the position of every man in the majority, has not been waged to convince anybody here. It has resounded to fire the democratic heart, to sound a blast to the cohorts of party, to beat the long-roll, and set the squadrons in the field. That is its object, as plainly to be seen, as the ultimate object of the attempted overthrow of laws.

Political speeches having been thus ordained, I have discussed political themes, and with ill-will to no portion of the country but good-will toward every portion of it, I have with candor spoken somewhat of my thoughts of the duties and dangers of the hour. [Applause on the floor and in the galleries.]